

REMARKS

With entry of this Amendment, claims 1-31 are pending in the application. By this Amendment claims 1, 4, 5, 8-10, 12, 14-16, 18-20, 24, 25, and 29 have been amended for clarity in accordance with Examiner's suggestions.

Support for the amendments to the claims relating to exemplary preservatives operable within the invention is found, for example, at page 9, lines 9-11 of the specification.

Support for the amendments to the claims relating to exemplary buffers operable within the invention is found, for example, at page 9, lines 16-21 of the specification.

Support for the amendments to the claims relating to exemplary humectants operable within the invention is found, for example, at page 9, lines 6-8 of the specification.

All of the amendments presented herein are fully supported by the disclosure, and no new matter is added to the application by entry thereof.

Entry of the foregoing amendment and reconsideration of the application in view of these amendments and accompanying remarks is earnestly solicited.

Patentability Under 35 U.S.C. § 102

Applicant notes for the record that the Office has substantively reviewed the application and pending claims and has not levied any rejection of claims under 35 U.S.C. § 102. On this basis Applicant understands the Office has fully considered the pending claims and determined that the subject matter therein is novel over all publications and patents of record in the application.

Patentability Under 35 U.S.C. § 103

Applicant notes for the record that the Office has in the current Office Action withdrawn the prior rejection of claims 1-23 under 35 U.S.C. § 103, as allegedly unpatentable over Wenig, U.S. Patent No. 4,724,231; Slot, et al., *Gastroenterology* 113:430-433, 1997; and Garcia-Arieta, et al., *Biol. Pharm. Bull.* 24:1411-1416, 2001.

Applicant also notes for the record that the Office has withdrawn the prior rejection of claims 24-30 under 35 U.S.C. § 103 as allegedly unpatentable over Wenig, U.S. Patent No. 4,724,231; Slot, et al., *Gastroenterology* 113:430-433, 1997; and Garcia-Arieta, et al., *Biol. Pharm. Bull.* 24:1411-1416, 2001.

In view of the foregoing, Applicant understands the Office has fully considered the pending claims and determined that the subject matter therein is nonobvious over all publications and patents of record in the application.

Patentability Under 35 U.S.C. § 112, First Paragraph

The current Office Action presents a rejection of claims 1, 23, 24, 30 and 31 under 35 U.S.C. § 112, first paragraph, for alleged lack of enablement. This rejection was specifically addressed in an Examiner Interview on October 4, 2006, between Applicant's representative, Peter Knudsen, and Examiner Paul Ward and Supervisory Primary Examiner Thurman Page (see, Interview Summary Paper No. 20061004).

During the course of this Interview, Examiner indicated that the original enablement rejection (relating to determining bioavailability) presented in the current Office Action would be withdrawn, and that a new ground for rejection was being considered relating to scope/enablement. In the context of discussing this new ground for rejection, Examiner indicated that the claims would be allowable over such scope rejection if amended to include “a buffer Markush group and a preservative Markush group” (see, Interview Summary).

Applicant has amended the claims herein in accordance with Examiner's suggestions to include an exemplary buffer Markush group and an exemplary preservative Markush group, in accordance with the teachings of the specification as detailed above. Applicant thereby respectfully submits that all grounds for rejection under 35 U.S.C. § 112, first paragraph, have been overcome.

CONCLUSION

Applicant believes that all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a). This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application. Applicant claims small entity status. The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 502769. The Extension for response within first month is \$60.00.

If Examiner believes that a telephone conference would expedite prosecution of this application, please telephone the undersigned at (425) 908-3643.

Respectfully Submitted,

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